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Express Mail Label No. EV 432 689 300 US

PATENT APPLICATION

Docket No: 13914.632

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Dalebout et al.

Serial No.:

09/737,392

Confirmation No.:

1890

Filed:

December 15, 2000

For:

SELECTIVELY DYNAMIC EXERCISE PLATFORM

Examiner:

Lori Baker Amerson

)
)
)
)
) Art Unit
) 3764

TRANSMITTAL FOR SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Mail Stop: AMENDMENT

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Transmitted herewith for filing and pursuant to 37 C.F.R. § 1.97 is an Information Disclosure Statement, which includes the following statements, if any, required variously by 37 C.F.R. § 1.98:

☒ Statement of relevance of selected cited references not in the English language which are not translated.

☐ Statement that selected cited references are substantially cumulative of an enclosed or previously submitted reference.

☐ Statement that selected cited references were previously cited by or submitted to the earlier filing date under 35 U.S.C. § 120.

* Admitted only in California

† Admitted only in New York

A. Additional Materials Required Due to Content of Information Disclosure Statement

Transmitted are the following documents in addition to the Information Disclosure Statement as required variously under 37 C.F.R. § 1.98:

- ☒ Form PTO-1449 listing 76 references submitted for consideration.
- ☒ Copies of the 12 references listed on the Form PTO-1449.
- ☒ English translations as indicated on the Form PTO-1449 of the references which are not in the English language.
- ☐ Copies of the following documents from the prosecution of a previous, related application:
 - ☐ Form PTO-1449 AND INFORMATION DISCLOSURE STATEMENT; and
 - ☐ Form PTO-892

B. Additional Materials Required Due to Timing of Filing of Information Disclosure Statement

The transmitted Information Disclosure Statement is being filed within one (1) of the following four (4) time periods:

- I. ☐ Prior to the later of either three (3) months following the filing date or the mailing of a first Office Action. Accordingly, no materials other than those listed above are enclosed.
- II. ☒ Following the latter of either three (3) months following the filing date or the mailing of a first Office Action, but before the mailing of a final Office Action or a Notice of Allowance. Accordingly, to secure consideration thereof, one (1) of the following is also enclosed:
 - ☐ Promptness Certification; or
 - ☒ Credit Card Form PTO 2038 in the amount of \$180.00 constituting the submission fee set forth in 37 C.F.R. § 1.17(p).
- III. ☐ After the mailing of a Notice of Allowance, but before payment of the Issue Fee. Accordingly, in order to secure consideration thereof, each of the following are also enclosed:
 - ☐ Promptness Certificate;
 - ☐ Petition for Consideration; and
 - ☐ Check No. in the amount of \$_____ constituting the petition fee set forth in 37 C.F.R. § 1.17(i)(1).

IV. _____ After payment of the Issue Fee. Accordingly, in order to secure consideration thereof, each of the following are also enclosed:

_____ Petition to Withdraw from Issue; and

_____ Check No. _____ in the amount of \$ _____ constituting the petition fee set forth in 37 C.F.R. § 1.17(i)(1).

C. Fees

The Commissioner is hereby authorized to charge payment of or any deficiency in the following fees associated with this communication, or to credit any overpayment thereof, to Deposit Account No. 23-3178. A duplicate copy of this letter is enclosed.

X Any fee required in relation to filing of this letter or any documents transmitted therewith.

_____ The submission fee set forth in 37 C.F.R. § 1.17(p) in the event that 37 C.F.R. § 1.97(c) applies and the Examiner is not satisfied that any Promptness Certificate submitted meets the requirements of 37 C.F.R. § 1.97(e).

_____ The submission fee set forth in 37 C.F.R. § 1.17(p).

_____ The petition fee set forth in 37 C.F.R. § 1.17(i)(1).

Dated this 9th day of December, 2004.

Respectfully submitted,



David B. Dellenbach
Attorney for Applicants
Registration No. 39,166
Customer No. 022913
Telephone No. (801) 533-9800



Express Mail Label No. EV 432 689 300 US

PATENT APPLICATION
Docket No: 13914.632

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Dalebout et al.)	
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09/737,392)	3764
Filed:)	
December 15, 2000)	
Confirmation No.:)	
1890)	
For:)	
SELECTIVELY DYNAMIC EXERCISE PLATFORM)	
Examiner:)	
Lori Baker Amerson)	

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT
UNDER 37 C.F.R. § 1.97

Mail Stop: AMENDMENT	
Commissioner for Patents	12/13/2004 NHGUYEN1 00000126 09737392
P.O. Box 1450	01 FC:1806
Alexandria, Virginia 22313-1450	180.00 DP

Sir:

Please find, pursuant to 37 C.F.R. § 1.98(a)(1), the enclosed Form PTO-1449 which contains a list of all patents, publications, or other items that have come to the attention of one or more of the individuals designated in 37 C.F.R. § 1.56(c). While no representation is made that any of these references may be "prior art" within the meaning of that term under 35 U.S.C. §§ 102 or 103, the enclosed list of references is disclosed so as to fully comply with the duty of disclosure set forth in 37 C.F.R. § 1.56.

Moreover, while no representation is made that a specific search of office files or patent office records has been conducted or that no better art exists, the undersigned attorney of record believes that the enclosed art is the closest to the claimed invention (taken in its entirety) of which

the undersigned is presently aware, and no art which is closer to the claimed invention (taken in its entirety) has been knowingly withheld.

In accordance with 37 C.F.R. §§ 1.97 and 1.98, a copy of each of the listed references or relevant portion thereof is also enclosed.

Statement of Relevance of References Listed
Unaccompanied by English Translation
Under 37 C.F.R. § 1.98(a)(3)

In accordance with 37 C.F.R. § 1.98(a)(3), the following concise explanation of the relevance of each listed reference that is not in the English language and unaccompanied by a translation into English is provided:

German Patent No. DE 4105313, Issued 8/27/1992: **Therapeutic Balancing Appliance with Board Foot** – has protruding strip on underside and supports which are adjustable. The therapeutic balancing appliance consists of a board (1) on which to place a foot. The board's underside has a protuberance in the form of a strip (3) as a labile support for the board (1). The maximum tilt angle of the board can be adjusted from an initial horizontal position via two adjustable supports (5) attached to the underside of the board (2). The space between the tilting-strip (3) and the supports (5) are adjusted by means of hooked-pile fasteners (6).

USE/ADVANTAGE – Therapeutic balancing appts. Reduces risk of injury.

French Patent No. FR 2410486; Issued December 2, 1977: The limbering-up appliance is intended for preparing skiers, and consists of a base to which is joined a swivel plate. The base has two extensions, each with a socket hole for receiving the end of a ski stick.

The connections between the plate and the base are in the form of compression springs.

French Patent No. FR 2592802; Issued January 16, 1988: The player stands on a mobile horizontal plate (4) which is moved by his feet. The plate moves against a ring of cellular foam or

springs between the plate and a fixed base. A closed box (8) is fitted into a cell in the plate and has a track in it that a ball (10) is moved round.

The base of the box is moulded to form obstacles (13) in relief or hollowed out, that form the track. The ball has to be moved from a start point (D) to a finish point (A), by moving the plate.

USE – May be used as a treatment of balance disorders.

French Patent No. FR 2624385; Issued December 10, 1987: The sailboard simulator, especially for indoor training, consists of a board (2) which is mounted on a base (1) so that it is capable of a rotary motion which can be braked. The board is equipped with a mast (11) and a sail simulator (4), and a pulley, cable and weight assembly (4') to simulate the force of the wind.

Between the board and the base is a housing (3) containing a loaded rotary system which can incorporate flexible spheres, power cylinders, or a combination of these, to simulate the pitch and roll motion of the sailboard.

ADVANTAGE – Closer simulation of natural conditions.

Please credit any over payment or charge any additional fees to Deposit Account No. 23-3178 of the undersigned.

Dated this 9th day of December, 2004.

Respectfully submitted,



David B. Dellenbach
Attorney for Applicant
Registration No. 39,166
Customer No. 022913
Telephone No. (801) 533-9800

DBD/lrc
LC0000001867V001



Express Mail Label No. EV 432 689 300 US

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Filed:	December 15, 2000)	
)	
Confirmation No.:	1890)	
)	
For:	SELECTIVELY DYNAMIC EXERCISE PLATFORM)	
)	
Examiner:	Lori Baker Amerson)	

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

I hereby certify that the following documents are being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: Mail Stop: AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 9 day of December, 2004:

- Transmittal for Supplemental Information Disclosure Statement (3 pgs.) (in duplicate)
- Supplemental Information Disclosure Statement (3 pgs.)
- Form PTO-1449 (6 pgs.)
- Copies of 12 references
- Credit Card Form PTO 2038 for \$180
- Postcard

Respectfully submitted,

Linda Clark, Assistant to
David B. Dellénbach
Attorney for Applicants
Registration No. 39,166

Customer No. 022913

Telephone No. (801) 533-9800

INFORMATION DISCLOSURE CITATION

(Use several sheets if necessary)

Docket Number (Optional)

13914.632

Application Number

09/737,392

Applicant(s)

Dalebout, et al.

Filing Date

December 15, 2000

Group Art Unit

3764

U.S. PATENT DOCUMENTS

EXAMINER INITIAL	REF	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	1	D227,584	7/1973	Perez	D34		
	2	D241,863	10/1976	Friedl	D34		
	3	D306,049	2/1990	Bancroft	D21	191	
	4	D375,985	11/1996	Dailey et al.	D21	191	
	5	D382,609	8/1997	Szabo et al.	D21	191	
	6	D405,135	2/1999	Scott	D21	688	
	7	D428,948	8/2000	Gebhard	D21	686	
	8	D489,423	5/2004	Fan et al.	D21	688	
	9	D489,778	5/2004	Fan et al.	D21	688	
	10	2,455,274	11/1948	Scriver	272	57	
	11	2,707,465	5/1955	Nemeth	128	46	

FOREIGN PATENT DOCUMENTS

	REF	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
							YES	NO
	1	DE 4105313	8/27/1992	Germany-w/English Abstracts	A63B22	16		✓
	2	DE 1428843	11/28/1968	Germany	A63B		✓	
	3	DE 2239545	2/21/1974	Germany	A63B23		✓	
	4	FR 2410486	12/2/1977	France (w/English Abstract)	A63B23			✓
	5	FR 2592802	1/16/1988	France (w/English Abstract)	A63B23			✓

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)

1	Preliminary Amendment and Statement Under 37 C.F.R. § 1.63(d)(2) Deleting Inventors, filed May 29, 2003 in U.S. Patent Application No. 10/446,778, filed May 29, 2003 (12 pages)
2	Fitter first; balance and fitness for life, Summer 2003, Available at least as early as August 14, 2003 (8 pages).

EXAMINER	DATE CONSIDERED
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EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP Section 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

INFORMATION DISCLOSURE CITATION <i>(Use several sheets if necessary)</i>				Docket Number (Optional) 13914.632		Application Number 09/737,392	
				Applicant(s) Dalebout, et al.			
				Filing Date December 15, 2000		Group Art Unit 3764	

O I P E J C S
 DEC 09 2004
 PATENT & TRADEMARK OFFICE

U.S. PATENT DOCUMENTS							
*EXAMINER INITIALS	REF	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	12	2,714,007	7/1955	Jordan	272	57	
	13	2,829,891	4/1958	Ludwig	272	1	
	14	2,829,892	4/1958	Ludwig	272	1	
	15	2,941,801	6/1960	Pedersen	272	70	
	16	3,416,792	12/1968	Morgan et al.	272	60	
	17	3,451,672	6/1969	Kazdan	272	30	
	18	3,488,049	1/1970	Sasser, Jr.	272	1	
	19	3,586,321	6/1971	Gehrke et al.	272	33	
	20	3,862,768	1/1975	England	280	205	
	21	3,929,329	12/1975	Rivera	272	57	
	22	3,961,787	6/1976	Studebaker et al.	272	93	

FOREIGN PATENT DOCUMENTS								
	REF	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
							YES	NO
	6	FR 2624385	12/10/1987	France (w/English Abstract)	A63B69			✓
	7	GB 1372342	10/30/1974	UK	A63B23			

OTHER DOCUMENTS <i>(Including Author, Title, Date, Pertinent Pages, Etc.)</i>	
3	Fitter first; balance and fitness for life, www.fitter1.com , printed July 12, 2003 (12 pages).
4	Bongo; Balance Training Systems, www.balance-boards.com , printed July 12, 2003 (1 page).

EXAMINER	DATE CONSIDERED
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INFORMATION DISCLOSURE CITATION <i>(Use several sheets if necessary)</i>				Docket Number (Optional) 13914.632		Application Number 09/737,392	
				Applicant(s) Dalebout, et al.			
				Filing Date December 15, 2000		Group Art Unit 3764	

O I P E J C S R
 DEC 09 2004
 PATENT & TRADEMARK OFFICE

U.S. PATENT DOCUMENTS							
		DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	23	3,967,820	7/1976	Harper	272	70	
	24	3,984,100	10/1976	Firster	272	96	
	25	4,285,516	8/1981	Heatwole	272	146	
	26	4,386,915	6/1983	Gilliam	434	253	
	27	4,491,318	1/1985	Francke	272	146	
	28	4,505,477	3/1985	Wilkinson	272	146	
	29	4,530,498	7/1985	Heatwole	272	146	
	30	4,601,469	7/1986	Sasser, Jr.	272	146	
	31	4,700,947	10/1987	Heatwole	272	146	
	32	4,759,542	7/1988	Hudec	272	111	
	33	4,817,950	4/1989	Goo	273	148B	

FOREIGN PATENT DOCUMENTS								
	REF	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
							YES	NO

OTHER DOCUMENTS <i>(Including Author, Title, Date, Pertinent Pages, Etc.)</i>		
	5	Fitter International Inc., Personal Health & Fitness, www.fitter1.com, printed March 24, 2000 (7 pages).

EXAMINER	DATE CONSIDERED
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*EXAMINER INITIAL	REF	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	34	4,826,159	5/1989	Hersey	272	146	
	35	4,850,588	7/1989	Desjardins et al.	272	111	
	36	4,905,994	3/1990	Hartz	272	146	
	37	4,911,430	3/1990	Flament	272	97	
	38	4,966,364	10/1990	Eggenberger	272	111	
	39	5,002,272	3/1991	Hofmeister	272	146	
	40	5,062,624	11/1991	Reed	272	1R	
	41	5,078,393	1/1992	Morasiewicz	272	146	
	42	5,190,506	3/1993	Zubik et al	482	68	
	43	5,256,127	10/1993	Yeh	482	146	
	44	5,292,296	3/1994	Davignon	482	146	

FOREIGN PATENT DOCUMENTS

	REF	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
							YES	NO

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)

EXAMINER

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				Applicant(s) Dalebout, et al.			
				Filing Date December 15, 2000		Group Art Unit 3764	

U.S. PATENT DOCUMENTS							
EXAMINER INITIALS	REF	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	45	5,310,395	5/1994	Ko	482	146	
	46	5,399,140	3/1995	Klippel	482	146	
	47	5,423,136	6/1995	Gulli	36	132	
	48	5,522,783	6/1996	Gordon	482	127	
	49	5,536,226	7/1996	Gordon	482	80	
	50	5,603,334	2/1997	Sharp	128	779	
	51	5,611,524	3/1997	Gordon	267	154	
	52	5,643,161	7/1997	Gordon	482	127	
	53	5,674,166	10/1997	Gordon	482	127	
	54	5,683,337	11/1997	Zetocha et al.	482	146	
	55	5,749,816	5/1988	Froelich, Sr. et al.	482	123	

FOREIGN PATENT DOCUMENTS								
EXAMINER INITIALS	REF	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
							YES	NO

OTHER DOCUMENTS <i>(Including Author, Title, Date, Pertinent Pages, Etc.)</i>		

EXAMINER	DATE CONSIDERED
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				Applicant(s) Dalebout, et al.			
				Filing Date December 15, 2000		Group Art Unit 3764	
U.S. PATENT DOCUMENTS							
*EXAMINER INITIALS	REF	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	56	5,765,921	6/1998	Chuang	297	423.46	
	57	5,820,096	10/1998	Lynch et al.	248	346.01	
	58	5,899,835	5/1999	Puranda	482	90	
	59	D340,487	10/1993	Traub	D21	712	
	60	D396,904	8/1998	Leu	D32	30	
	61	D478,947	8/2003	Lu	D21	662	
	62	5,810,700	9/1998	Orcutt	482	123	
	63	5,833,587	11/1998	Strong et al.	482	123	
	64	6,740,008	5/2004	Ho et al.	482	34	
FOREIGN PATENT DOCUMENTS							
	REF	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	Translation YES NO
OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)							
EXAMINER				DATE CONSIDERED			
EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP Section 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.							